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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

# Office Action Summary

**Application No.**

10/699,940

**Applicant(s)**

SCOTT ET AL.

**Examiner**

JEAN Duclos SAINT CYR

**Art Unit**

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 12, 13, 15, 16, 18, 19, 24, 25, 27-29, 31-33, 35-38 and 40-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-13, 15-16, 18-19, 24-25, 27-29, 31-33, 35-38, 40-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-913)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **35 U.S.C. 112 , Second Paragraph**

Claims 29, 31 and 32 are rejected under 35 U.S.C 112.Claim element “a means for storing television program metadata in a database; a means for arranging the program metadata in a relational schema; a means for defining and storing the pre-defined queries; a means for embedding links to the pre-defined queries in logically associated metadata for a currently displayed television program; and a means for logically combining multiple predefined queries using Boolean operators” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function. The specification did not disclose enough algorithm and program for executing those functions.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant is required to clarify the record by either:

(a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

(b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

#### **Response to Amendment**

This action is in response to applicant's amendment filed on 01/25/2011. Claims 1-10, 12, 13, 15, 16, 18, 19, 24, 25, 27-29, 31-33, 35-38 and 40-44. **This action is made NON-FINAL.**

#### **Response to Arguments**

Applicant's arguments with respect to claims 1-10, 12, 13, 15, 16, 18, 19, 24, 25, 27-29, 31-33, 35-38 and 40-44 have been considered and are in part persuasive. With respect to independent claims 1, 18, 29, 33, 36, 38, 40; applicant argues that Yuen et al did not disclose navigating the sequence of television programs, wherein the navigating comprises using the next key or previous key to change from displaying the currently displayed television program in the sequence to displaying another television program in the sequence, wherein the next key or previous key is used to cycle through the sequence of television programs without having to access a menu listing the television programs in the sequence for navigating to display of a next television program in the

sequence; the navigation controls provide for navigation from display of the currently displayed television program to display of a plurality of different television programs corresponding to the television program identifiers in the list by activation of a single key for cycling through display of the television programs along the navigational axis identified by the list ; and the list is not displayed during cycling through the television programs.

Also, applicant amends claims 38 and 44 to overcome the 101 rejection.

However, Ellis show in fig.9 a screen where user can cycle to programs and related data without accessing a new menu and this list is not displayed during the cycling process and disclose when the user invokes the flip mode, flip display 153 may be provided over a portion of a channel, i.e., channel 2, that the user is currently tuned to and is watching on display screen 154. Flip display 153 contains information in region 156 on the program 155 appearing on the current channel, channel 2, to which the set-top box 60 or other user equipment is tuned. The user may change the channel using channel up and down keys on the remote control or using user interface 118 to issue other suitable channel change commands. This simultaneously changes the channel to which the set-top box 60 or other user equipment is tuned and the channel information displayed in region 156 and the associated program information, 0105-0108; according to information we can conclude that the user only uses the up-down channel button to

cycle through the television program without having the list displayed during the process.

The 101 rejection was withdrawn. As a result, this action is made non-final.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8-10, 12-13, 15-16, 18-19, 24-25, 27-29, 31-33, 35-38, 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrington et al in view of Ellis et al, US No.20100319041 .

Re claim 1, Herrington et al disclose a method, comprising: displaying a currently displayed television program on a display (see fig.5, element 116);

activating a navigation system during display of the currently displayed television program, wherein the navigation system determines and displays a set of viewer-selectable attributes for the currently displayed television program overlaid on the currently displayed television program, the set of attributes comprising attributes which are each descriptive of a different aspect of the currently displayed television program, wherein each attribute of the set of viewer-selectable attributes corresponds to a combinable navigation context to generate a navigable sequence of television programs (the program guide may display related program find display screen for the program Seinfeld when a user presses a single user interface key while a video for Seinfeld is displayed in display screen, 0053; the system may present the user with a list of attributes for the given program and may allow the user to select one or more attributes and may allow the user to select which logical operations e.g., and/or operations are to be performed on the attributes, 0008; an overlay having listings for programs which are related to the user-selected program, 0060);

selecting at least two attributes from the set of viewer-selectable attributes using one or more of three navigation keys comprising a previous key, a next key and a select key (the user may select one or more attributes, 0070; have various buttons that can be pressed by the user such as arrow keys e.g., for directing on-screen movement of a highlight region, for directing scrolling functions, etc., an OK, select, enter, or other such selection key for making a selection, 0045);

logically combining the navigation contexts which correspond to the selected at least two attributes using Boolean operators (When plural attributes are selected, the search may be performed using a logical AND or a logical OR function, 0070);

querying a database of television programming metadata for television program identifiers associated with the combined navigation contexts(The system may search television program listings and may display a list of related programs based on the selected attributes,0008; 0063);

generating a sequence of television programs associated with the identifiers for navigation wherein the sequence comprises a corresponding navigational axis, the sequence of television programs including the current television program and at least one other television program that shares one or more of the selected attributes with the currently displayed television program (see fig.5 where a list of television programs are associated with identifiers; 0051).

But did not explicit disclose navigating the sequence of television programs, wherein the navigating comprises using the next key or previous key to change from displaying the currently displayed television program in the sequence to displaying another television program in the sequence, wherein the next key or previous key is used to cycle through the sequence of television programs without having to access a menu



listing the television programs in the sequence for navigating to display of a next television program in the sequence.

However, Ellis et al disclose navigating the sequence of television programs, wherein the navigating comprises using the next key or previous key to change from displaying the currently displayed television program in the sequence to displaying another television program in the sequence, wherein the next key or previous key is used to cycle through the sequence of television programs without having to access a menu listing the television programs in the sequence for navigating to display of a next television program in the sequence(see fig.9; when the user invokes the flip mode, flip display 153 may be provided over a portion of a channel, i.e. channel 2, that the user is currently tuned to and is watching on display screen 154. Flip display 153 contains information in region 156 on the program 155 appearing on the current channel, channel 2, to which the set-top box 60 or other user equipment is tuned. The user may change the channel using channel up and down keys on the remote control or using user interface 118 to issue other suitable channel change commands. This simultaneously changes the channel to which the set-top box 60 or other user equipment is tuned and the channel information displayed in region 156 and the associated program information,0105-0108 ).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to incorporate the teaching of Ellis into the invention of Herrington

for the purpose of allowing users to interact with up and down buttons to select content without opening any other menus.

Re claim 2, Herrington et al explicitly disclose wherein the querying is performed by one or more predefined queries and each predefined query is associated with a combinable navigation context (0009; the program guide may provide the user with an opportunity to configure search parameters for searching for related programs based on attributes of the user-selected program, 0063 )

Re claim 3, Herrington et al disclose wherein the set of attributes includes an actor attribute and a director attribute, and wherein logically combining the navigation contexts which correspond to the selected attributes comprises logically combining navigation contexts which correspond to the actor attribute and the director attribute to generate a single actor-director navigational axis (whether a program has the same actor, director, 0051).

Re claim 4, Herrington et al disclose wherein links for launching the one or more predefined queries are associated with television program content (while a video for Seinfeld is displayed in display screen 92. The single user interface key may, for example, be a search key of a remote control for requesting that the system locate related programs, 0053).

Re claim 5, Herrington et al disclose wherein the television program content is included in a conventional broadcast television show (see fig.5).

Re claim 6, Herrington et al a did not disclose wherein the television program content is included in one of an on-demand television show or an on-demand television movie.

However, Ellis et al disclose wherein the television program content is included in one of an on-demand television show or an on-demand television movie on demand (see fig.7; a video-on-demand application may be supported using server 5,0061).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to incorporate the teaching of Ellis into the invention of Herrington for the purpose of allowing users to receive on demand contents from service provider according to their request.

Re claim 7, Herrington et al did not explicitly disclose wherein the television program content is included in television musical programming.

However, Ellis et al disclose wherein the television program content is included in television musical programming (Content such as television programming and digital

music may be provided from programming sources 12 to television distribution facilities,0048).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to incorporate the teaching of Ellis into the invention of Herrington for the purpose of allowing user to get access to music data or audio content.

Re claim 8, Herrington et al disclose wherein a link is selectable while the television program content is playing(the program guide may display related program find display screen 94 for the program Seinfeld when a user presses a single user interface key while a video for Seinfeld is displayed in display screen,0053).

Re claim 9, Herrington et al disclose wherein links for launching the one or more predefined queries are associated with television program metadata (descriptions, program type, genre, actors, 0038).

Re claim 10, Herrington et al disclose wherein a link is selectable while the television program metadata is displayed (see fig.7c; The system may present the user with a list of attributes for the given program and may allow the user to select one or more attributes and may allow the user to select which logical operations,0008 ).

Re claim 12, Herrington et al disclose wherein the select key of the navigation controls selects one or more of the combinable navigation contexts(When plural attributes are selected, the search may be performed using a logical AND or a logical OR function,0070).

Re claim 13, Herrington et al disclose further comprising using at least one of the combinable navigation contexts as a logical filter (see fig.7c where user selects "start trek movie" containing Patrick Steward only as attribute).

Re claim 15, Herrington et al disclose wherein the Boolean operators are applied automatically based on an association between a link for launching a predefined query corresponding to a navigation context and the television program content associated with the link (The system may search television program listings and may display a list of related programs based on the selected attributes, 0008).

Re claim 16, Herrington et al disclose wherein the Boolean operators are applied automatically based on an association between a link for launching a predefined query corresponding to a navigation context and the television program metadata associated with the link(the program guide may locate program listings for programs that have an attribute that matches an attribute of the given program e.g., a common actor, same content, same subject matter, same series, common director, same category, same theme, common production year, etc,0059).

Re claim 18, Herrington et al disclose a method, comprising: displaying content of a currently displayed first television program on a display (see fig.5);

activating a navigation system during display of the content of the currently displayed first television program, wherein the navigation system automatically determines and displays a set of viewer-selectable attributes that are descriptive of different aspects of the currently displayed first television program, wherein the navigation system overlays the set of viewer-selectable attributes on the display of the content of the currently displayed first television program(0053; the system may present the user with a list of attributes for the given program and may allow the user to select one or more attributes and may allow the user to select which logical operations e.g., and/or operations are to be performed on the attributes,0008; the program guide may display a display screen or, if desired, an overlay ,0060);

receiving a selection of one or more attribute values from the displayed set of viewer-selectable attributes to define a first-query for television programming metadata, wherein the navigation system uses the selected one or more first-attribute values corresponding to the currently displayed first television program in the query to identify a plurality of television program identifiers corresponding to a plurality of television programs identified by the navigation system as corresponding to the selected one or more attribute values(see fig.7c; the user may select one or more attributes e.g., by

pressing a remote control OK button or otherwise selecting desired attributes,0070; 0045);

providing a user interface, wherein a navigation control is used to launch the query by selecting the one or more attribute values from the displayed set of viewer-selectable attributes corresponding to the currently displayed first television program(When plural attributes are selected, the search may be performed using a logical AND or a logical OR function,0070); and

receiving input from the navigation control to sequentially display content of the plurality of television programs as a navigational axis corresponding to the one or more attribute values(see fig.5; the user may select one or more attributes e.g., by pressing a remote control OK button or otherwise selecting desired attributes,0070).

But did not explicitly disclose the navigation control navigating the navigational axis by a single key used to cycle through displaying the content of the of-plurality of television programs identified without accessing a menu listing the plurality of television program.

However, Ellis et al disclose the navigation control navigating the navigational axis by a single key used to cycle through displaying the content of the of-plurality of television programs identified without accessing a menu listing the plurality of television program (see fig.9; when the user invokes the flip mode, flip display 153 may be provided over a

portion of a channel, i.e. channel 2, that the user is currently tuned to and is watching on display screen 154. Flip display 153 contains information in region 156 on the program 155 appearing on the current channel, channel 2, to which the set-top box 60 or other user equipment is tuned. The user may change the channel using channel up and down keys on the remote control or using user interface 118 to issue other suitable channel change commands. This simultaneously changes the channel to which the set-top box 60 or other user equipment is tuned and the channel information displayed in region 156 and the associated program information, 0105-0108).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to incorporate the teaching of Ellis into the invention of Herrington for the purpose of allowing users to interact with up and down buttons to select content without opening any other menus.

Re claim 19, is met as previously discussed with respect to the rejection of claim 18.

Re claim 24, Herrington et al disclose further comprising displaying program information for each television program in response to the navigation control accessing the television program (see fig.5).

Re claim 25, Herrington et al disclose further comprising: pausing a particular



television program at a pause point in response to the navigation control accessing another particular television program of the plurality of television programs; and resuming the particular television program at the pause point in response to the navigation control accessing the particular television program again (resumes watching television, 0085).

Re claim 27, Herrington et al disclose further comprising selecting multiple first attribute values, wherein the multiple first attribute values are combined in the query using Boolean logic operators, wherein the Boolean logic operators are applied automatically(When plural attributes are selected, the search may be performed using a logical AND or a logical OR function,0070).

Re claim 28, Herrington et al disclose wherein the Boolean operators are designated by a context of the currently displayed first television program(may allow the user to select one or more attributes and may allow the user to select which logical operations e.g., and/or operations are to be performed on the attributes. The system may search television program listings and may display a list of related programs based on the selected attributes, 0008).

Re claim 29, Herrington et al disclose a multi-axis television navigation system, comprising: a server for storing and accessing digital television programming content

(see fig.1, element 56; the server e.g., television distribution facility 56 may include a database that may include program listing information, 0048);

a navigation control for navigating any one of multiple navigational axes to change from displaying a currently displayed television program to displaying a television program provided by the server, and for selecting links to launch predefined queries, wherein each predefined query queries a database based on television program attributes selected by a viewer and returns a navigation axis comprising a list of program identifiers of television programs corresponding to a value for the television program attributes selected(the system may present the user with a list of attributes for the given program and may allow the user to select one or more attributes and may allow the user to select which logical operations e.g., and/or operations are to be performed on the attributes,0008);

a means for storing television program metadata in a database (see fig.1, element 64);

a means for arranging the program metadata in a relational schema (an arrangement such as that shown in FIG. 7c may be used to search for related programs, 0068);

a means for defining and storing the pre-defined queries (The system may provide the user with an opportunity to save search parameters for use at a later time, 0009);

a means for embedding links to the pre-defined queries in logically associated metadata for a currently displayed television program (When plural attributes are selected, the search may be performed using a logical AND or a logical OR function, 0070); and

a means for logically combining multiple predefined queries using Boolean operators(The system may present the user with a list of attributes for the given program and may allow the user to select one or more attributes and may allow the user to select which logical operations,0008);

wherein the navigation system is configured to be activated during the display of the currently displayed television program; the navigation system automatically determines and displays a set of viewer-selectable attributes that are descriptive of different aspects of the currently displayed television program; the navigation system overlays the set of viewer-selectable attributes on the currently displayed television program(the program guide may display a display screen or, if desired, an overlay having listings for programs which are related to the user-selected program; From the list, the user may find a particular program of interest to the user,0060);

the navigation system uses one or more selected attribute values selected from the set of viewer-selectable attributes corresponding to the currently displayed television

program to define one of the predefined queries to produce the list of television program identifiers as a navigational axis (see fig.5).

But did not explicitly disclose the navigation controls provide for navigation from display of the currently displayed television program to display of a plurality of different television programs corresponding to the television program identifiers in the list by activation of a single key for cycling through display of the television programs along the navigational axis identified by the list ; and the list is not displayed during cycling through the television programs.

However, Ellis et al disclose the navigation controls provide for navigation from display of the currently displayed television program to display of a plurality of different television programs corresponding to the television program identifiers in the list by activation of a single key for cycling through display of the television programs along the navigational axis identified by the list; and the list is not displayed during cycling through the television programs(see fig.9; when the user invokes the flip mode, flip display 153 may be provided over a portion of a channel, i.e. channel 2, that the user is currently tuned to and is watching on display screen 154. Flip display 153 contains information in region 156 on the program 155 appearing on the current channel, channel 2, to which the set-top box 60 or other user equipment is tuned. The user may change the channel using channel up and down keys on the remote control or using user interface 118 to issue other suitable channel change commands. This

simultaneously changes the channel to which the set-top box 60 or other user equipment is tuned and the channel information displayed in region 156 and the associated program information,0105-0108).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to incorporate the teaching of Ellis into the invention of Herrington for the purpose of allowing users to interact with up and down buttons to select content without opening any other menus.

Re claim 31, is met as previously discussed with respect to the rejection of claim 1.

Re claim 32, Herrington et al disclose wherein the relational schema adheres at least in part to a global listings format (see fig.5).

As claim 33, the claimed "a database for television program metadata; a query engine to find program identifiers in the database corresponding to predefined queries, wherein a predefined query returns a navigational axis from the database, wherein a navigational axis is a list of program identifiers of television programs..." is composed as the same structural elements as previously discussed with respect to the rejection of claim 29.

Re claim 35, is met as previously discussed with respect to the rejection of claim 1.

Re claim 36, Herrington et al disclose a multi-axis television program system that comprises a processor coupled to computer readable storage media; a multi-axis database schema implemented by a-the processor executing instructions stored in the computer readable storage media, the schema comprising: instructions for arranging a database of television programming metadata into indices facilitating predefined queries(each set-top box preferably contains a processor to handle tasks associated with implementing an application on the set-top box 62 that assists the user in searching for programs,0050);

wherein: one or more links contextually associated with one or more attributes of a currently displayed television program call the predefined queries, wherein the one or more attributes are selected by a viewer from among a set of attributes and logically combined using Boolean operators (When plural attributes are selected, the search may be performed using a logical AND or a logical OR function, 0070);

each attribute of the set corresponds to a combinable navigation context which can be used for generating a navigable sequence of television programs along a navigational axis; the set of attributes corresponding to the currently displayed television program are automatically determined by the processor and displayed as viewer-selectable attributes when a user interface is activated during display of the currently displayed television program(see fig.5; the program guide may display related

program find display screen 94 for the program Seinfeld when a user presses a single user interface key while a video for Seinfeld is displayed in display screen,0053);

the predefined queries return a list of identifiers from the database corresponding with one or more of the attributes (see fig.5),

each list forms a navigational axis(The attributes may include program genre(s), actors, rating, channel, director, year produced, or any other suitable program attributes,0071),

each identifier in a list corresponds to either an on-demand or currently broadcast television program (the program guide may display a list of programs based on a search of currently available program listings with saved search parameters from an earlier search, 0079);

the television programs on the list are displayed as accessed by a television channel navigation control for navigating one or more navigational axes (see fig.5).

But did not explicitly the television channel navigation control comprises a next key, a previous key and a select key; and the next key or previous key is used to cycle through the television programs corresponding to the list without having to access a

menu listing the television programs in the list for navigating to a next television program in the sequence.

However, Ellis et al disclose the television channel navigation control comprises a next key, a previous key and a select key; and the next key or previous key is used to cycle through the television programs corresponding to the list without having to access a menu listing the television programs in the list for navigating to a next television program in the sequence(see fig.9; when the user invokes the flip mode, flip display 153 may be provided over a portion of a channel, i.e. channel 2, that the user is currently tuned to and is watching on display screen 154. Flip display 153 contains information in region 156 on the program 155 appearing on the current channel, channel 2, to which the set-top box 60 or other user equipment is tuned. The user may change the channel using channel up and down keys on the remote control or using user interface 118 to issue other suitable channel change commands. This simultaneously changes the channel to which the set-top box 60 or other user equipment is tuned and the channel information displayed in region 156 and the associated program information,0105-0108).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to incorporate the teaching of Ellis into the invention of Herrington for the purpose of allowing users to interact with up and down buttons to select content without opening any other menus.



Re claim 37, Herrington et al disclose wherein the one or more attributes include at least one of: type of program, program title, alphabetical order of title, year of release, channel, time, first air date, episode order, episode name, genre, actors, writer, director, producer, rating, sound characteristics, video characteristics, language, subtitles, closeness of match to search criteria, or popularity(the program guide may locate program listings for programs that have an attribute that matches an attribute of the given program e.g., a common actor, same content, same subject matter, same series, common director, same category, same theme, common production year,0059).

As claim 38, the claimed " defining a television navigation axes-axis according to attributes of television programs where two-one or more attributes define the navigational axis axes ; receiving a viewer selection of one or more attributes from among the displayed set of viewer-selectable attributes, wherein each attribute displayed is descriptive of a different aspect of a-the currently displayed television program..." is composed as the same structural elements as previously discussed with respect to the rejection of claim 1.

As claim 40, the claimed "displaying a currently displayed television program on a television; activating a navigation system during display of the currently displayed television ..." is composed of the same structural elements as previously discussed with respect to the rejection of claim 1.

Re claim 41, Herrington et al disclose further comprising presenting on the television the navigational axis and at least some information for the television programs that correspond to the television program identifiers(see fig.7c; a common actor, same content, same subject matter, same series, common director, same category, same theme, common production year,0059).

Re claim 42, Herrington et al disclose further comprising during display of the different television program, activating the navigation system again, wherein the navigation system automatically determines and displays a different set of viewer-selectable attributes that are descriptive of the different television program, wherein the navigation system overlays the different set of viewer-selectable attributes on the display of the different television program, wherein one or more of the different attributes is selected to create a new list of television program identifiers corresponding to the selected one or more different attributes for creating an additional navigational axis, the additional navigational axis based on results from a different query based on the one or more different attributes(see fig.5; the program guide may display a display screen or, if desired, an overlay having listings for programs which are related to the user-selected program. From the list, the user may find a particular program of interest to the user. The program guide may provide the user with an opportunity to select a program listing from the list, 0060).

Re claim 43, is met as previously discussed with respect to the rejection of claim 1.

Re claim 44, is met as previously discussed with respect to the rejection of claim 40.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Duclos Saintcyr whose phone number is 571-270-3224. The examiner can normally reach on M-F 7:30-5:00 PM EST. If attempts to reach the examiner by telephone are not successful, his supervisor, Brian Pendleton, can be reached on 571-272-7527. The fax number for the organization where the application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, dial 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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